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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,816	09/11/2003	David B. Lantz	BOR03 P-104	5260

270 7590 12/15/2004

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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,816

Applicant(s)

LANTZ ET AL.

Examiner

Jeffrey A. Shapiro

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 8 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what portion Applicant's checkout apparatus is the extendible support. For example, Claim 1 being illustrative, Applicant recites "an extendible support adapted for supporting at least one bag, said extendible support mounted to said rotatable support surface. However, it is not clear whether Applicant is referring to the conveyor belt of (10a), the belt of (10b), rotating support (20), or some other element that can be construed as being an extendible and rotatable support.

It is also not clear what is meant by "said extendible support being movable between an operable position... and a stowed position." If the support module is (20), then the "stowed position" implies that, for example, rotating bag store and support (20, 22) is moved in some fashion. However, it appears that what is actually occurring is that a conveying surface extension is moved over the gap between the front and rear modules, said gap being where the rotating bag support sits.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3653

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al (US 6,427,915 B1) in view of Nguyen (US 6,793,043 B2). Wike discloses a checkout counter with bagwell (60), extendible supports (56 and 70) which are designed to be moved based upon either a checkout or a self-checkout configuration. Wike further discloses that the checkout apparatus has a front module (32) and a rear module (28).

Wike does not expressly disclose, but Nguyen discloses using a rotating bagwell (212 or 309) having multiple positions for bags in a checkout counter (300) having a front module (22) and a rear module (28). Note that Nguyen discloses at col. 1, lines 45-55 that module (28) is "optional", implying that it is optional based on the configuration required to efficiently process items through the checkout.

Both Wike and Nguyen are considered to be analogous art because they both concern checkout counter apparatus'

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used the rotating bagwell support of Nguyen in place of Wike's stationary, non-rotating bag supports.

The suggestion/motivation would have been to "increase productivity, decrease customer waiting, and increase customer satisfaction through greater control of the bagging process." See Nguyen, col. 2, lines 31-52, and particularly lines 49-52. Note also that Wike's extensions (56) and (70) suggest a movable cover over the bagwell

area and that Wike's bagwell (60) suggests a need for increasing throughput by allowing more items to be bagged quickly and efficiently. This need is met by Nguyen's rotating bagwell support which allows a user to simply rotate the support to an empty bag when a particular bag position is full.

Therefore, Claims 1-27 are rejected.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

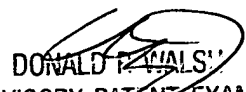
Application/Control Number: 10/659,816
Art Unit: 3653

Page 5

A large, stylized handwritten signature in black ink, likely belonging to Jeffrey A. Shapiro.

Jeffrey A. Shapiro
Examiner
Art Unit 3653

December 11, 2004

A smaller handwritten signature in black ink, likely belonging to Donald P. Wals.

DONALD P. WALS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600